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I N   A S S E M B L Y

January 22, 2010

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Introduced by M. of A. THIELE, BURLING, COLTON, FIELDS, GALEF, GORDON, HYER-SPENCER, JAFFEE, KOON, LAVINE, MARKEY, McDONOUGH, RAI, SCHIMEL, SPANO, ZEBROWSKI, CASTRO -- Multi-Sponsored by -- M. of A. BARRA, DenDEKKER, DESTITO, DUPREY, P. LOPEZ, McKEVITT, M. MILLER, MOLINARO, SAYWARD, SKARTADOS, TOWNSEND -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the general business law, in relation to zone pricing of gasoline; and to amend chapter 579 of the laws of 2008 amending the general business law relating to zone pricing of gasoline, in relation to making certain technical changes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of subdivision 1 of section 399-ee of the  
2     general business law is relettered paragraph (a-1) and a new paragraph  
3     (a) is added to read as follows:  
4     (A) "ADDITIONAL COSTS" MEANS ALL REPLACEMENT AND TRANSPORTATION COSTS  
5     AND TAXES INCURRED.  
6     S 2. Paragraph (g) of subdivision 1 of section 399-ee of the general  
7     business law, as added by chapter 579 of the laws of 2008, is amended to  
8     read as follows:  
9     (g) "Relevant geographic market" means the geographic area of effective  
10    competition AMONG RETAIL OUTLETS.  
11    S 3. Paragraph (m) of subdivision 1 of section 399-ee of the general  
12    business law, as added by chapter 579 of the laws of 2008, is amended to  
13    read as follows:  
14    (m) "Zone pricing" means the ESTABLISHMENT OF arbitrary price differences  
15    BASED ON THE GEOGRAPHICAL LOCATION OF THE RETAIL OUTLET within the  
16    relevant geographic market, [based on] WITHOUT REGARD TO the posted  
17    terminal price [or] AND ANY ADDITIONAL COSTS where the effect is to  
18    injure competition.  
19    S 4. Subdivision 2 of section 399-ee of the general business law, as  
20    added by chapter 579 of the laws of 2008, is amended to read as follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 2. No PRODUCER, REFINER, wholesaler, OR DEALER shall engage in zone  
2 pricing with respect to any motor fuel of like grade or quality, WHICH  
3 IS SUPPLIED TO DEALER OPERATED RETAIL OUTLETS.

4 S 5. Section 2 of chapter 579 of the laws of 2008 amending the general  
5 business law relating to zone pricing of gasoline is amended to read as  
6 follows:

7 S 2. Legislative findings and intent. The legislature hereby finds and  
8 declares that for the past several years motor fuel prices have greatly  
9 fluctuated. In some cases, price fluctuations are caused by natural  
10 market conditions. In other cases, fluctuations result from artificial  
11 manipulation of the market. One such artificial pricing manipulation is  
12 zone pricing. Zone pricing is the setting of different wholesale prices  
13 for retail motor fuel [that operate in different geographic areas] BASED  
14 ON GEOGRAPHIC LOCATION. Zone pricing increases the price of retail motor  
15 fuel for certain consumers, leading to inequities among consumers and  
16 regions around the state. Therefore, the legislature hereby declares  
17 that while natural market occurrences may lead to price fluctuations,  
18 artificial changes in motor fuel prices unfairly harm many consumers  
19 around the state.

20 S 6. This act shall take effect on the thirtieth day after it shall  
21 have become a law.